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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 11

January 18, 1994

No. 1

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## Legislative Update, January 18, 1993

### House Week in Review

The 124 members of the House---71 Democrats, 52 Republicans and 1 Independent---returned to Columbia on Tuesday, January 11 for the convening of the second session of the 110th General Assembly. With much of the 1993 legislative session having been spent on government restructuring, legislators returned to Columbia facing many other issues, from juvenile crime and welfare reform to reapportionment and property taxes. Almost 200 bills were introduced in the House during the first three days of this session.

Resuming work on bills left over from the 1993 session, the House gave second reading to three statewide bills last Thursday. First, the House voted 80-29 to repeal the state's mandatory vehicle inspection law (H. 3281), despite concern from opponents that such repeal would result in many more unsafe vehicles on the roads and thus more accidents. Following approval of that bill, the House then voted 84-9 in favor of H. 3649, which prohibits a child from being placed in foster care or adoption with a person who is determined to have committed abuse or neglect, who has been convicted of criminal sexual conduct or abuse, or who is a homosexual or bisexual. The third bill to receive House approval, H. 3569, generated much debate and many questions. This bill would prohibit homosexuals and bisexuals from serving in the South Carolina National Guard and State Guard. Supporters of the bill claimed that it reflected the opinions of the state's population, while opponents expressed concern that passage of the law could lead to a reduction or elimination in federal funds for the Guard and questioned the need for such a law. Approval of this bill was by a vote of 92 to 20.

A proposed South Carolina lottery moved a step closer to reality when the House Judiciary Committee last Wednesday approved H. 3765, a proposed constitutional amendment to authorize a state lottery. Under this proposal, half of lottery revenues would be expended on prizes, a maximum of 15 percent of revenues would be expended on the lottery's operational expenses, and remaining lottery revenues would be spent on capital improvements and the reduction of bonded indebtedness. H. 3765 is now on the House calendar for further consideration.



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### Bills Introduced

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The following bills have been introduced in the House. Some of these bills were introduced during three prefiling days in December, while others were introduced during the first week of the session. Not all bills introduced are listed here. The bills are arranged according to the committee to which they were referred.

#### AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

Regulation of Beverage Containers (H. 4318, Rep. Cromer). This bill is designed to promote recycling of and reduce waste from beverage containers. Under these provisions, a beverage container (a jar, bottle, etc. containing beverages such as soda and beer) sold or offered for sale in South Carolina must have a refund value of at least 5 cents, whether or not the container is certified. Beverage containers sold or offered for sale in South Carolina must post their refund value. The bill prohibits a beverage dealer from refusing to accept from a consumer an empty beverage container of the kind, size and brand sold by the dealer or refusing to pay the consumer the refund value of a container. Additionally, a beverage distributor would not be allowed to refuse to accept from a dealer an empty beverage container of the kind, size and brand sold by the distributor or refuse to pay the container's refund value to the dealer. Dealers, however, would not be required to accept an empty beverage container from a consumer if the container did not state the refund value, and distributors would not be required to accept empty beverage containers from dealers if the containers did not specify a refund value.

To promote the use of reusable beverage containers of uniform design and to facilitate the use of containers to manufacturers for reuse as a beverage container, the Department of Revenue and Taxation must certify these containers. The bill lists the requirements for certification and allows the Department to withdraw certification if the container no longer qualifies for certification.

In order to ~~facilitate the return~~ of empty beverage containers and to serve dealers of beverages, a person may establish a redemption center at which consumers may return empty beverage containers and receive payment of the refund value of the beverage containers. Establishment of a center is contingent on approval from the Department of Revenue and Taxation, which must approve the redemption center if it finds that the center will provide a convenient service to consumers for the return of empty beverage containers. The order of the department approving the center must list the dealers to be served by the center and the kind and brand names of empty beverage containers which the center



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accepts. The bill lists conditions under which the department may withdraw approval of a redemption center.

A person violating any of these provisions is guilty of a misdemeanor and upon conviction must be fined not more than \$100 or imprisoned not more than 30 days.

Renewal of Motorboat Number Certificates (H. 4326, Rep. Richardson). This bill prohibits the Department of Natural Resources from renewing a motorboat number certificate unless the applicant submits proof of payment of property taxes on the motorboat. Proof of payment may be provided by either (1) the owner's property tax receipt on the vessel issued by the county treasurer on the vehicle for the last completed tax year or (2) a statement from the applicant's county treasurer certifying that personal property taxes due and payable on the boat and motor have been paid for all tax years since the later of (1) the last year in which the motorboat's number certificate was issued or renewed or (2) the year in which the current owner acquired ownership of the motorboat. These provisions do not apply to watercraft which are exempt from personal property taxes. Anyone violating these provisions is guilty of a misdemeanor and upon conviction must be fined a maximum of \$100 or jailed a maximum of 30 days. If, however, the violation consists of operating a vessel without a valid number for a period more than 12 months after the violator acquired ownership of the vessel, then the maximum fine is \$500. (A similar bill, H. 4502, was referred to the Ways and Means Committee.)

Donations of Property to Heritage Trust Program (H. 4344, Rep. Harwell). This bill allows donations of real and personal property, such as land, houses, stocks and bonds, to be made to the Heritage Trust Program. This program, in existence since 1976, is dedicated to protecting and preserving South Carolina's unique and outstanding natural and cultural lands. In carrying out these provisions, the Board of the Department of Natural Resources may contract with a broker or agent to sell donated property, with sales proceeds deposited in the Heritage Trust Land Fund and used for the purposes of the program. Additionally, the Board may establish minimum acceptable prices for disposition of donated property, trade donated property for property of equal value, promote donations to the program through advertising, and decline donations for any reason.

Specially-Equipped Deer Stands Required (H. 4403, Rep. Holt). Under this bill, if the Department of Natural Resources offers deer hunts to the public through drawings for public hunt areas, and if raised deer stands are used in an area, then at least ~~one stand in the area~~ must be equipped with a hydraulic lift to allow hunters with special needs to use the stand.

Conditions for Conducting Prescribed Fires (H. 4422, Rep. Rhoad). This bill lists conditions for conducting prescribed fires. A prescribed fire is a controlled fire applied to forest, brush or grassland vegetative fuels under specified environmental conditions and precautions which cause the fire to be confined to a pre-determined area and allow accomplishment of planned land management objectives such as maintenance of ecological diversity and reforestation. Persons conducting prescribed fires pursuant to these provisions



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must have a prescribed fire plan prepared before authorization to burn is given by the State Commission on Forestry and also must have at least 1 certified prescribed fire manager present and supervising the burn from ignition until it is declared safe. Persons conducting a prescribed fire pursuant to these provisions are exempt from liability for damage, injury or other consequences of the prescribed fire unless negligence is proven. However, persons who conduct a prescribed fire without a certified prescribed fire manager present are not exempt from liability for any consequences of the fire.

Unlawful to Hunt Game Within 100 Yards of a Residence or Business (H. 4425, Rep. Corning). This bill prohibits anyone from hunting game, including small game, big game and migratory waterfowl, within 100 yards of a residence or business without the permission of the owner and occupant. A person violating these provisions is guilty of a misdemeanor and upon conviction must be fined a maximum of \$200 or imprisoned not more than 30 days. These provisions do not apply to a landowner hunting on his own land.

Fish Must Be Maintained in Whole Condition (H. 4477, Rep. Snow). This bill requires a person who fishes on waters where fish size limits are in effect to maintain his catch in a whole condition while on the waters. The fish must not be dressed, filleted, beheaded or mutilated in a manner which prevents the determination of its total length. A person convicted of violating these provisions a first time must be fined between \$30 and \$200 or imprisoned not more than 30 days, while a second or subsequent conviction within 2 years of the first conviction results in a fine of between \$300 and \$500, or imprisonment not exceeding 60 days, or both.

Alligator Harvest Program (H. 4478, Rep. Snow). This bill requires the Department of Wildlife and Marine Resources to establish an alligator harvest program on private lands. This program would consist of a private-lands quota harvest by landowners of alligators exceeding 4 feet in length, with the maximum harvest rate being 15 percent of the estimated minimum population of alligators of that size. Landowners or lessees of at least 100 acres of occupied alligator habitat must apply to participate in this program by May 1 each year. The Department is required to set quotas for each property on the basis of habitat inventories and field investigations. Alligators may be taken between September 15 and October 31, or as otherwise designated by the Department, by live traps, snarehooks, snares, harpoons and bangsticks. The bill prohibits the use or possession of firearms, except for bangsticks, when taking alligators. A harvest tag must be attached immediately to a harvested alligator and remain attached until validated by the Department. The bill allows alligator trappers to have a maximum of 3 assistants and requires the Department to set fees for applications, licenses, hide validations and meat sales.

Certain Wells Exempt From State Regulation (H. 4489, Rep. Witherspoon). This bill provides that temporary shallow groundwater wells used solely for jurisdictional determination of federal 404 wetlands as part of an approved plan of the Army Corps of Engineers are exempt from regulation by the state.



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Anterless Deer Permits (H. 4501, Rep. Snow). This bill allows the Department of Wildlife and Marine Resources to issue anterless deer permits to hunters for use in Game Zone 1 (Greenville, Oconee and Pickens Counties), Game Zone 2 (Abbeville, Anderson, Edgefield, Greenwood, Laurens, McCormick, Newberry and Saluda Counties) and Game Zone 4 (Cherokee, Chester, Fairfield, Lancaster, Spartanburg, Union and York Counties). The cost of the permit is \$5, and permit use is limited to the person to whom it is issued. The Department must prescribe regulations governing the use, validity and issuance of these permits. Revenue derived from the permits must be used to administer the permits, conduct deer research, and for law enforcement.

## EDUCATION AND PUBLIC WORKS

Designation of Motor Vehicles as Wreckage or Salvage (H. 4311, Rep. Govan). This bill provides that whenever any motor vehicle which qualifies as "wreckage" or "salvage" is transferred into South Carolina, then that vehicle must be designated as "wreckage" or "salvage" to the extent necessary to inform the person receiving the vehicle of the condition of the vehicle. This applies whether the vehicle was titled in South Carolina or another state prior to the transfer. Additionally, no wrecked or salvaged out-of-state vehicle or South Carolina-registered vehicle may be registered in South Carolina unless designated as "wreckage" or "salvage", and the designation must apply to all subsequent transfers of the vehicle.

Counties to be Listed on License Plates (H. 4317, Rep. Rudnick). This bill requires a license plate issued in this state to list the county from which it was issued.

Election of Transportation Commission Members (H. 4322, Rep. Gonzales). This bill requires that the 6 members of the Transportation Commission who are to be elected from congressional districts must be chosen from the districts in effect between July 1992 and the first February 15th after the General Assembly establishes new congressional districts, at which time the initial terms of commission members representing even-numbered districts will be 2 years, while the initial terms for those representing odd-numbered districts will be 4 years (after the initial terms, these 6 commission members each will serve 4 year-terms). (The legislative delegation of each congressional district will elect their respective commission member no later than this February.)

Retention of ~~License Tag~~ on Vehicle Bequeathed by Owner (H. 4327 and H. 4331, Rep. Rudnick). These identical bill provide that when the owner of a vehicle dies and ownership of that vehicle is bequeathed to the owner's spouse, then the spouse has the option of retaining the license tag on the vehicle. The spouse must notify the Department of Revenue and Taxation within 30 days of receipt of the vehicle if he or she wishes to retain the tag. The department would record the transfer and issue a new registration card to the owner and may charge 3 dollars for each such transfer and registration. The property tax year for the vehicle transferred in this manner remains the same as in the year before the former owner's death. The bills also provide for a pro-rated refund of



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registration and license fees for vehicles which are sold during the registration and license period,.

Delivery Services Exempt from Certain Traffic Laws (H. 4330, Rep. Fair). This bill provides that the existing prohibition against stopping, standing or parking a vehicle in or on certain areas (e.g., on sidewalks, near a fire hydrant, etc.) does not apply to postal service carriers or other businesses which provide mail, parcel or package delivery and which make frequent stops for a brief period of time.

Additional License Plates for Dealers (H. 4334, Rep. Walker) This bill increases from 1 to 2 the number of dealer license plates which may be purchased by a dealer who sells in the year prior to application for the plates between 11 and 49 motor vehicles. The bill also reduces the cost of the plates for these dealers from \$300 each to \$20 each. These provisions would apply to all dealer license plates issued beginning July of 1993, and dealers who purchased a plate for \$300 could apply for a refund with the Department of Revenue and Taxation.

Southern History Month (H. 4336, Rep. Waldrop). This bill designates the month of May each year as "Southern History Month" in South Carolina, during which time the governor would issue proclamations to commemorate this event and would call on state and local government agencies, institutions and entities, along with the state's citizens, to observe this event.

Sales Required to Obtain Dealer License Plates (H. 4337, Rep. R. Smith). This bill lowers from 50 to 20 the number of vehicles a dealer must sell in a year to qualify to obtain a \$20 dealer license plate. Currently a dealer selling between 11 and 49 vehicles must pay \$300 for a dealer plate. Dealers selling between 11 and 19 vehicles would still be eligible to obtain a \$300 dealer plate. Additionally, the bill provides that persons issued dealer plates prior to July of 1993 are entitled to the same number of plates issued as of June 30, 1993.

Sales Required to Obtain Dealer License Plates (H. 4339, Rep. Neilson). This bill lowers from 50 to 20 the number of vehicles a motor vehicle dealer must sell in a year in order to qualify to purchase a \$20 dealer plate. The bill also allows dealers who sell between 11 and 19 vehicles, as currently opposed to between 11 and 49 vehicles, each year to obtain one dealer plate and reduces the cost of that plate from \$300 to \$150.

Free Vehicular Registration for Purple Heart Recipients (H. 4354, Rep. McKay). This bill allows any resident who is a recipient of the U.S. Armed Forces Purple Heart award to register their personal motor vehicle or truck, not exceeding a weight of three-quarters of a ton, free of charge. Only one free license plate may be issued per recipient. If a recipient applies for a special personalized license plate, however, he must pay the fee for that personalized plate.

Deletion of Funds for Development of Continuous Assessment System for Kindergarten-Grade 3 (H. 4357, Rep. Fair). This bill deletes a temporary proviso from the 1993-1994 General Appropriation Act which authorizes the Department of



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Education to develop and pilot-test a continuous assessment system for Kindergarten through Grade 3 and for piloting new items for the state assessment system using funds currently allocated to the Department's Division of Policy for testing in grades 1, 2 and 6.

Additional Requirements for Persons Seeking Election as a School District Board of Trustee (H. 4361, Rep. Stuart). This bill requires any person elected for the first time to a school district board of trustees after July 1, 1994 to be a graduate of an accredited high school or to hold a GED (General Educational Development Tests Degree). Additionally, within 1 year of taking office, that person must successfully complete a training program for that position in a course conducted by a public or private entity or organization. The course and entity must be approved by the State Board of Education. Extensions beyond 1 year to complete the training may be granted by the State Board of Education if good cause is shown. A person who fails to complete this training program within 1 year may be removed by the governor.

Elimination of Subsidies for Out-of-State Students (H. 4364, Rep. Stuart). This bill requires state colleges, universities and technical colleges to increase tuition and fees for out-of-state students to a level which eliminates the state general fund subsidies for the cost of these students. Elimination of this subsidy would be phased-in over 3 years, with tuition increasing to a level so that 75 percent of the subsidy is eliminated by School Year 1994-1995, 85 percent is eliminated by School Year 1995-1996, and the entire subsidy is eliminated by School Year 1996-1997. Increased revenue generated from elimination of this subsidy of out-of-state students must be used to lower the cost of tuition and fees for in-state students of the state's institutions of higher learning.

Increased Weight Limits for Fleet Motor Vehicles (H. 4366, Rep. Phillips). This bill redefines fleet vehicles, as pertains to registration and licensing of corporate-owned fleet motor vehicles, to provide that a fleet means a vehicle with empty weight of not more than 22,000 pounds, as currently opposed to not more than 5,000 pounds, and a gross vehicle weight of not more than 26,000 pounds, as currently opposed to not more than 8,000 pounds.

Partial Refund of License Plate Fees (H. 4377, Rep. Kirsh). Under this bill, the owner of a motor vehicle which is licensed and registered for 2 years is eligible for a refund equal to one-half the registration fee paid on the vehicle if he surrenders the license plate and registration to the Department of Revenue and Taxation ~~during the first 12 months of the licensing period~~. If the owner is simultaneously registering another vehicle, he may apply the refund against the registration due for that vehicle.

Issuance of Dealer License Plates to Dealers Who Sell Vehicles Modified for Use by the Handicapped (H. 4381, Rep. D. Smith). This bill authorizes the issuance of a minimum of 2 dealer plates, at a cost of \$20 each, to a licensed motor vehicle dealer in the business of selling motor vehicles which he has modified for use by handicapped persons. The dealer may obtain the plates regardless of the number of sales he makes.



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County Expenditure of C Funds (H. 4383, Rep. Phillips). This bill provides for the expenditure of a county's apportionment of C funds. Under these provisions, at least 25 percent of a county's apportionment of these funds must be expended on the state highway system for construction, improvements and maintenance. No more than 75 percent may be expended for local paving or improving county roads for street and traffic signs and other paving projects. Roads constructed of rock that are built with the 75 percent C funds must consist of at least 1 inch but not more than 2-1/2 inches or rock or its equivalent.

The bill also provides that C funds allocated to a county may be used to pay for engineering, contracting and project supervision expenses associated with appropriate projects. If a county transportation committee chooses to have the county's C funds administered by the Department of Transportation, then primary and secondary roads built with C funds must meet the specifications of the Department of Transportation.

These requirements also apply to funds transferred from the State Highway Fund to C fund "donor counties" (counties which contribute more to the C fund than they receive under the Fund's allocation formula)

County Expenditure of C Funds (H. 4385, Rep. Farr). Like H. 4383, this bill also sets requirements as to how counties must spend their apportionment of C funds. Under this legislation, counties must expend at least 50 percent on roads and bridges in the state highway system; no more than 25 percent for local paving or improving county or municipal roads or bridges and for street/traffic signs; and not more than 25 percent on additional construction and maintenance projects. The bill also requires that before the expenditure of these funds by the county transportation committee, the committee must adopt specifications for local road projects as part of its transportation plan. Additionally, when expending C funds, counties which elect to provide for engineering, contracting and project supervision must use a procurement system which requires compliance with all state purchasing regulations, including equal employment opportunity and disadvantaged business enterprises.

Campus Incentive Funds Must Be Used to Provide Bonus to School Employees Who Are Not Teachers (H. 4392, Rep. Anderson). In the 1993-1994 General Appropriations Act, \$11.5 million in Campus Incentive Program funds were distributed as a one-time bonus to classroom teachers. This bill would require that Campus Incentive Program funds also be used to provide a one-time bonus of the same amount to all other school employees, retroactive to July 1, 1993. No school employee who receives a bonus as a state employee would be eligible for this bonus, and bonuses for federally-funded school employees must be paid from federal funds.

Establishment of Extended School Year Program for Children With Disabilities (H. 4395, Rep. P. Harris). This bill requires an extended school year program for children with disabilities to be established in each school district. The extended school year program consists of an individualized instructional program, related service or both, which is extended beyond the normal 180-day school year for students with disabilities who are enrolled in



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special education. The purpose of extended school year services is to ensure that the child derives meaningful educational benefit, forestall serious regression of previously-learned skills, or both. The extended school year program is designed to maintain each student's mastered competencies in critical skills areas as determined by the pupil's individual educational plan committee, so that a summer break period does not render the previous year's program of no meaningful benefit.

All children with disabilities must be screened for potential eligibility for extended school year services. Decisions as to which children qualify for the services and the amount and kind of programming needed must be determined on an individual basis. The bill lists the procedures which must be followed in reviewing referrals and determining eligibility for extended school year services

The bill permits a parent or guardian to refuse to allow their child to participate in the extended school year program without the need for a due process hearing and provides that if necessary, transportation to and from extended school year services must be provided at no cost to participants.

Helmet Law Applies to All Persons Riding Two-Wheeled Motorized Vehicles (H. 4396, Rep. P. Harris). If this legislation is adopted, all persons, regardless of age, riding two-wheeled motorized vehicles would be required to wear a protective helmet. Currently the helmet requirement applies only to persons under age 21 who ride these vehicles.

Dealer Plates (H. 4409, Rep. Kirsh). Under current law, a licensed motor vehicle dealer selling between 11 and 49 vehicles in a given year is eligible to obtain only 1 dealer plate, at a cost of \$300, while dealers selling 50 or more motor vehicles a year may be issued 1 dealer plate, at a cost of \$20, for every 20 vehicles sold. This bill deletes the \$300 cost for dealer plates for dealers who sell less than 50 vehicles per year and provides that all dealer plates are \$20 each. Furthermore, the bill revises eligibility to obtain dealer plates as follows:

| <u>Vehicles Sold in<br/>Preceding 12 mo.</u> | <u>Maximum Number<br/>of Plates Allowed</u>                       |
|--|---|
| 1-11   | 1   |
| 12-24  | 4   |
| 25-36  | 5   |
| 37-48  | 6   |
| 49 or more                                   | At least 6, but not<br>more than 1 for every<br>10 vehicles sold. |

Schoolhouse Safety Alliance Act (H. 4414, Rep. Phillips). This bill is designed to address in a comprehensive manner the problems of juvenile crime and school safety, by focusing on 3 areas---(1) collaboration to prevent school violence, (2) parental responsibility and (3) judicial response.

In the area of violence prevention, the bill establishes a Schoolhouse Safety Resource Center at the Department of Education, the mission of which is



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to provide technical assistance and training to schools regarding violence prevention/intervention, strategies for collaboration with appropriate agencies, crisis management planning, and preparation for using the judicial system. The center also must provide information on the best practices for addressing school crime.

The bill requires the State Department of Education, with the consent of the board of trustees of applicable school districts, to pilot different approaches to avoiding school violence by identifying cluster schools in urban and rural settings in high crime areas to serve as model projects for the prevention of school violence. Each cluster school must implement a specialized method of intervention or prevention in an intense three-year project. A School Violence Prevention Advisory Committee consisting of representatives from various service agency providers and local law enforcement officials is to be convened by the State Law Enforcement Division (SLED), and this committee would select the cluster schools to serve as pilot sites, work with each site to identify the approach to be implemented, and monitor the progress of these programs over the 3-year period. By the end of 1996, the State Department of Education, based on evaluation of the pilot programs and development of programs for faculty and staff regarding school violence, would complete an external evaluation consisting of identification of (1) the best practices for addressing problems associated with school violence, along with documented evidence of best practices; (2) the best practices for addressing student violence in traditional school programs in the state; and (3) effective initiatives in prevention and intervention, including truancy prevention and a review of the Education Improvement Act attendance requirements.

Each school district must institute in its schools case management teams. These teams, consisting of teachers, school administrators, parents, counselors, and representatives of health and social service agencies, will work as units on behalf of students who display signs of recurrent aggressive or violent behavior. The Department of Education also is to develop, in conjunction with the Departments of Corrections and Juvenile Justice, conflict resolution strategies to be taught to juveniles in confinement facilities.

In the area of parental responsibility, the bill requires each school district to establish a procedure for the district's schools to convene a case management team, for the purpose of assisting children identified as in need of guidance or counseling to prevent violent behavior. Parents of children identified as candidates for case management are required to participate in case management meetings ~~and in seeking services~~ recommended by the case management team. If a parent or guardian fails to comply with the school's request to participate in these meetings or seek services, the principal or his designee may apply to the family court for a summons ordering the parent/guardian to appear before the court to explain the reason for failure to comply with the school's request. Failure to comply with the summons is punishable by contempt. Employers are required to grant leave to parents for participation in these meetings. The State Board of Education must promulgate regulations requiring that the parenting, family literacy and parental involvement programs, mandated by the



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Early Childhood Development and Academic Assistance Act, to include instruction in nonviolent living skills.

The bill provides for several judicial responses to school violence. The Judicial Department is required to develop and offer continuing legal education seminars to licensed attorneys in issues of youth violence. School officials are required to report to appropriate law enforcement agencies criminal behavior by a student as defined in the Department of Education's regulations.

School Soccer Teams Cannot Exclude Students in Other Soccer Programs (H. 4434, Rep. Clyborne). Under these provisions, no school or school district can prohibit a student from playing on a school soccer team if the student is playing on a soccer team in a program that is not affiliated with the school system.

Higher Speeds Allowed For Vehicles Towing House Trailers (H. 4468, Rep. Harvin). This bill increases from 45 mph to 55 mph the speed limit for vehicles which tow house trailers.

Department of Transportation Must Notify Members of General Assembly Regarding Highway Project Meetings (H. 4475, Rep. Snow). This bill requires the Department of Transportation to provide written notification to each member of the General Assembly in whose House or Senate district a highway project is or is to be located when a public hearing or public meeting concerning the project is to be conducted. Notification is required at least 10 days prior to the hearing or meeting.

School Districts Must Establish Alternative Schools (H. 4505, Rep. Rudnick). This bill requires each school district with at least 2,500 students, based on the 135-day attendance report, to establish an alternative school to serve the district's at-risk students. Districts must establish these schools by July 1, 1995. The bill provides that an alternative school under these provisions is one which serves students who have failed in more traditional settings by providing special instruction programs, counseling and other curricula which are tailored to the student's individual needs.

## JUDICIARY

Legislators May Not Vote for Themselves for Positions Chosen by the General Assembly (H. 4302, Rep. Rogers). This bill prohibits a legislator from voting for himself in any election in which he is a candidate for an office elected by the General Assembly.

Drug Traffickers Ineligible for Parole, Extended Work Release or Supervised Furlough (H. 4303, Rep. T. Alexander). This bill provides that persons convicted of trafficking in specified amounts of controlled substances and sentenced to a mandatory minimum term of 25 years' imprisonment or a mandatory term of 25 years or more are ineligible for parole, extended work release or supervised furlough.



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Minimum Sentence for Armed Robbery (H. 4304, Rep. T. Alexander). This bill requires a person convicted of armed robbery to be sentenced to a mandatory minimum term of 10 years' imprisonment.

Additional Crimes For Which A Third Conviction Results in Life Imprisonment (H. 4305, Rep. Rudnick, and H. 4509, Rep. Simrill). Under current South Carolina law, except for when the death penalty is imposed, a person who has 3 convictions for a violent crime (whether under the laws of South Carolina, any state or the United States) must be sentenced to life imprisonment without parole.

H. 4305 provides that a third conviction for the offenses listed below also must result in a sentence of life imprisonment without parole:

(1) A felony which in South Carolina carries a maximum sentence of 25 years or 30 years;

(2) A felony which in South Carolina is exempt from the sentence limits specified in the State's Crime Classification Act (e.g., murder, lynching, certain drug offenses, etc.); or

(3) A federal or state conviction for an offense which would be classified as a felony under these provisions.

A person convicted under these provisions is ineligible for parole, extended work release, supervised furlough or early release.

H. 4509 is identical to H. 4305, with one exception, that being that under H. 4509, a person convicted a third time of a felony carrying a maximum imprisonment of 20 years also can be sentenced to life imprisonment without parole.

Increased Penalties for Shoplifting (H. 4308, Rep. Simrill). This bill increases the penalties for persons convicted of the misdemeanor of shoplifting. Current law defines shoplifting as a misdemeanor if the value of the merchandise taken is \$1,000 or less and provides a penalty upon conviction of a fine not exceeding \$500 or imprisonment not exceeding 30 days. Under this legislation, persons convicted of this misdemeanor the first time would be fined no more than \$500 or imprisoned not more than 6 months, while a person convicted the second time must be imprisoned not more than 1 year. Conviction for a third offense would result in imprisonment of not longer than 3 years.

Appeals of Workers' Compensation Awards (H. 4313, Rep. Baxley). This bill provides that a decision of the Workers' Compensation Commission to issue an award may be appealed to the court of common pleas of the county where the claimant resides. Additionally, actions not filed in the proper county may be transferred by the court to the appropriate venue.

Offense of Allowing Fire to Spread to Another's Property Also Applies to Fires Caused by Fireworks (H. 4315, Rep. Cromer). This bill provides that the offense of allowing one's fire, through carelessness or negligence, to spread to another person's property also includes fire or burning caused by use of fireworks.

Weapons Prohibited on School Campuses and Property (H. 4316, Rep. Rudnick). This bill prohibits anyone under age 21 from possessing a firearm or other weapon while on school property or a college/university or technical school campus, or



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while attending an activity or event sponsored by one of those institutions. A person violating these provisions would be guilty of a misdemeanor and upon conviction would (1) be imprisoned for a mandatory term of 1 year, and (2) be permanently expelled from any school, college or university.

Municipal Police Jurisdiction Extends to All Property Through Which City Boundaries Run (H. 4321, Rep. Gonzales). Under this bill, if any part of a parcel of property is within the boundary of a municipality, and the parcel borders a street or highway located in that municipality, then the remaining area of the parcel of property (area outside the municipal boundaries) is considered to be within the boundary of the municipality for purposes of the municipality's police jurisdiction.

Minimum Sentence for Armed Robbery (H. 4323, Rep. Wilkins). Like H. 4304, this bill requires a person convicted of armed robbery to be sentenced to a mandatory minimum term of 10 years' imprisonment. Additionally, signs listing the penalties for armed robbery, distributed by the Department of Revenue and Taxation to businesses which have been issued a retail sales tax license, no longer would contain any reference to service at hard labor.

Revised Forgery Penalties (H. 4329, Rep. Corning). Under this bill, a person convicted of forgery of any dollar amount is guilty of a felony. Upon conviction, the person must be fined at the discretion of the court or imprisoned not more than 7 years, except that if the dollar amount of the forgery is less than \$20, the person must be punished at the discretion of the court. Under current law, a conviction for forgery is a felony if the dollar amount of the forgery is more than \$1,000 and the maximum imprisonment imposed on a person convicted of the felony ranges from 5 years (if the dollar amount is more than \$1,000 but less than \$5,000) to 10 years (if the dollar amount is \$5,000 or greater).

Reapportionment of Congressional Districts (H. 4332, Rep. Sheheen). This bill reapportions the state's congressional districts in accordance with the U.S. Census figures of 1990. This bill codifies the plan which was adopted by a federal three-judge panel in the spring of 1992; hence if this plan is signed into law, congressional district boundaries for the rest of the decade and through the year 2000 would be the same as those in effect during the 1992 general election. The bill also provides that if a person is elected or appointed to serve or is serving as a board, commission or committee member of a congressional district, and his residency is changed to another district because of reapportionment, ~~he may serve or~~ continue to serve the term of office for which he was elected or appointed.

Reapportionment of State House Districts (H. 4333, Rep. Sheheen). This bill redraws the districts of the State House of Representatives. The proposal under this bill is the exact same plan adopted by a federal three-judge panel in 1992 and used in the November 1992 general election.

Certain Drug Traffickers Ineligible for Parole (H. 4338, Rep. Martin, and H. 4350, Rep. Wilkins). Under H. 4338, persons convicted of trafficking in



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various controlled substances and sentenced to a mandatory minimum term of imprisonment of 25 years or a mandatory term of 25 years or more are not eligible for parole, extended work release or supervised furlough. The bill also specifies that for purposes of sentencing a person convicted of possessing or trafficking in ice, crank or crack cocaine, prior convictions for this crime also include convictions for any federal, state, district or territorial laws pertaining to other controlled substances such as marijuana or hallucinogenic drugs. Persons convicted of conspiracy to traffick in ice, crank or crack cocaine also must be sentenced with a full sentence or punishment and are not eligible to be sentenced to one half or less of the punishment otherwise provided for conspiracy to commit drug offenses. H. 4350 is identical to H. 4338, except that (1) H. 4350 does not contain a provision prohibiting a person convicted of conspiracy to traffick in ice, crank or crack cocaine from being sentenced to only one-half the maximum prescribed sentence for the offense, and (2) H. 4350, unlike H. 4338, expands the statutory definition of violent crime to include trafficking in ice, crank or crack cocaine.

Judicial Nominating Commission (H. 4340, Rep. Neilson). This bill establishes a judicial nominating commission to assist the General Assembly in selecting qualified candidates for positions on the Supreme Court, the Court of Appeals, Circuit Court and Family Court. This commission would consist of 18 members, selected as follows:

(a) 6 members appointed by the governor (1 from each congressional district), with 3 members being licensed attorneys and 3 members being lay members (non-lawyers) representing the general public;

(b) 6 members elected by the General Assembly (1 from each congressional district), with 3 members being licensed attorneys and 3 members being lay members (non-lawyers);

(c) 6 members appointed by the chief justice of the State Supreme Court, all of whom must be licensed attorneys. Members appointed by the chief justice may not participate in any commission proceedings involving the nomination of the chief justice who appointed them.

All commission members would serve staggered 4-year terms, with no members allowed to serve more than 2 consecutive terms. Commission members would be paid the per diem, mileage and subsistence provided to other members of boards, commissions and committees. No commission member would be eligible for nomination, election or appointment as a judge or justice of a court for which the commission makes nominations while that person serves on the commission and for 3 years after ceasing to be a member of the commission.

It would be ~~the responsibility~~ of the commission to determine when judicial vacancies in these four courts (Supreme Court, Court of Appeals, Circuit Court and Family Court) are to occur and to investigate the qualifications of those seeking nominations to those courts. In investigating a person seeking nomination, the commission is to examine, among other things, the candidate's character, judicial temperament and knowledge of the law. In discharging its duties, the commission may administer oaths and affirmations, take dispositions and issue subpoenas to compel the attendance of witnesses and production of information considered necessary for the investigation.



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After investigating the qualifications of judicial candidates, the commission must submit to the General Assembly the names of the 3 candidates whom the commission considers to be best qualified for the judicial position under consideration, except that the commission may submit the name of only 1 person for the position of chief justice of the Supreme Court or chief judge of the Court of Appeals. If the commission determines there are fewer than 3 qualified applicants for a judicial position, then the commission must submit to the General Assembly only the names of those determined qualified. The General Assembly is prohibited from electing a person to the Supreme Court, Court of Appeals, Circuit Court or Family Court who is not nominated by the commission; however, the General Assembly may reject all persons nominated by the commission, in which case the nomination process begins again. The process also must begin again if an unopposed, incumbent justice or judge is not re-elected by the General Assembly.

Any member of the General Assembly seeking to be nominated by the commission to any of these four judicial positions must first resign his position before the commission may consider his candidacy. A former member of the General Assembly may not be granted the privilege of the floor in either chamber during the time (1) his qualifications are being investigated by the commission, and (2) his nomination by the commission for a judicial post is pending in the General Assembly. Furthermore, no person may seek a pledge from or solicit the vote of any member of the General Assembly, nor may any member of the General Assembly pledge their vote to any person for a judicial vacancy, until the commission has furnished the names of its nominees for the vacancy to the General Assembly.

Increased Penalties for Stalking (H. 4342, Rep. Simrill). This bill increases the penalties for persons convicted of the crime of stalking as follows:

(a) First Offense: Maximum Imprisonment increases from 1 year to 3 years, and maximum fine increases from \$1,000 to \$5,000.

(b) Committing Offense when Temporary Restraining Order/Injunction is in Effect: Offense becomes a felony, as currently opposed to a misdemeanor, and maximum imprisonment increases from 2 years to 5 years while maximum fine increases from \$1,000 to \$5,000.

(c) Second or Subsequent Offense Within 7 Years of Prior Conviction Against Same Victim and Involving an Act or Credible Threat of Violence: Offense becomes a felony, instead of a misdemeanor, and maximum imprisonment increases from 3 years to 10 years, while the maximum fine increases from \$2,000 to \$10,000.

Increased Jurisdiction of Magistrates (H. 4343, Rep. Martin). This bill increases the exclusive jurisdiction of magistrates to include criminal cases in which the punishment does not exceed a fine of \$500, as currently opposed to \$100, and cases which include both fine and imprisonment for punishment. The bill also provides that magistrates may impose a combination of fine and imprisonment, instead of only one or the other, in determining punishment for offenses under their jurisdiction.



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Child Custody (H. 4345, Rep. Neilson). This bill grants to the Family Court exclusive jurisdiction in child custody cases to order any amount of visitation, with this visitation not to be construed as either joint or divided custody.

Awarding of Child Custody (H. 4346, Rep. Neilson). This bill grants to the Family Court exclusive jurisdiction to award joint or divided custody in child custody cases.

Custody Preference (H. 4347, Rep. Neilson). This bill abolishes the "Tender Years Doctrine" as applies to child custody. Under this doctrine, in a custody case in which the child is in his tender years, preference in awarding custody goes to the mother.

Child Custody (H. 4348, Rep. Neilson). This bill provides that in an action in which child custody or visitation is in dispute, the court must consider the best interests of the child as the overriding principle in resolving such disputes. Under these provisions, the best interests of the child are considered to be served when a court order equally promotes and encourages the ongoing development and enhancement of the child's relationship with each parent, unless a parent is found to be unfit or is geographically removed from the child. In awarding custody and granting visitation, the court must strive to equalize the time the child spends with each parent and also to equalize and promote opportunities for each parent to be informed of and involved in the child's life in and out of school. These provisions do not require an award of joint or divided custody, and visitation awarded under these provisions may not be construed as joint or divided custody.

Reapportionment of State House Districts (H. 4349, Rep. Wilkins). This is a "skeleton bill" which could be used to redraw the boundaries of the districts of the State House of Representatives.

Judicial Screening and Election (H. 4355, Rep. Witherspoon). This bill seeks to reform several aspects of the election process of judicial offices which are elected by the General Assembly. Under this bill, all of the following requirements apply when a judicial office is elected by the General Assembly:

(1) A person acting on behalf of a judicial candidate may seek a pledge of support from a member of the General Assembly.

(2) The election of candidates for the judicial office must be held within 30 days after the General Assembly's judicial screening committee has determined the qualifications of candidates seeking the office;

(3) If the ~~candidate~~ for the judicial office is a member of the judiciary, he must take annual leave or leave without pay while seeking directly the pledge of a vote from a member of the General Assembly;

(4) No member of the General Assembly can seek a judicial office unless he resigns his seat 24 months before announcing for the office; and

(5) No former member of the General Assembly may be admitted within the outer doors of either the House or Senate while a candidate for the judicial office.



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Forgeries Are Felonies (H. 4356, Rep. Wilkins). Under this bill, anyone who commits forgery involving any dollar amount would be guilty of a felony. Under current law, forgery is a misdemeanor if the dollar amount of the forgery is \$1,000 or less or if the forgery does not involve a dollar amount.

Minimum Term of Imprisonment Does Not Apply to Certain Misdemeanors (H. 4358, Rep. Wilkins). This bill provides that for all offenders sentenced after June 1993, the minimum term of imprisonment required by law does not apply to misdemeanors which carry a maximum sentence of 3 years.

Increased Penalty for Obscenity (H. 4359, Rep. Wilkins). This bill increases from 3 years to 5 years the maximum imprisonment which may be imposed on someone convicted of the felony of obscenity.

Person Can Be Considered Guilty of Violent Crime Regardless of Previous Definition of that Crime (H. 4365, Rep. Wilkins). Under this bill, a person can be considered guilty of a violent crime, as currently defined by statute, even if that offense was not defined as a violent crime at the time the offense was committed. Under current law, no person may be considered guilty of a violent crime if at the time the offense was committed it was not considered a violent crime.

Nudity Prohibited (H. 4367, Rep. Fair). This bill prohibits a person from knowingly or intentionally appearing in a state of nudity in a public place, on another's property, or to the view of a person on a place or highway. The bill defines nudity and provides that a person who violates these provisions is guilty of a misdemeanor and upon conviction must be fined between \$500 and \$2,500 for a first offense. A person convicted of a second or subsequent offense must be imprisoned not more than 6 months. Furthermore, a business which allows a person to knowingly or intentionally appear nude is guilty of a misdemeanor. Upon conviction, any license issued by the Department of Revenue and Taxation to that business is suspended for 1 year and that business must be fined between \$1,000 and \$2,500. If the business is convicted of a second or subsequent offense, a license issued by the Department is revoked and the business must be fined between \$2,500 and \$5,000.

Exclusive and Concurrent Jurisdiction of Magistrates (H. 4384, Rep. Wilkes). This bill increases the exclusive jurisdiction of magistrates to include criminal cases in which the punishment does not exceed \$500, as currently opposed to \$100, or the punishment includes both fine and imprisonment. The bill also allows a magistrate ~~to impose a combination of fine and imprisonment when imposing a sentence~~ and provides that a magistrate may impose a sentence up to the limits of his jurisdiction for contempt of court. Currently, a magistrate may punish a person for contempt of court by imposing a fine not exceeding \$20 and/or imprisonment not exceeding 12 hours.

Regulation of Alcoholic Liquors and Beverages (H. 4402, Rep. Thomas). This joint resolution seeks to amend the Constitution to allow the General Assembly to regulate the consumption of alcoholic beverages and liquors and eliminate detailed requirements concerning the regulation of alcoholic beverages and



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liquors (as examples, requirements that liquor be sold in minibottles and not be sold in retail stores during certain hours).

Revised Penalties for Leaving Scene of Accident (H. 4404, Rep. Simrill). Under current law, a person convicted of leaving or failing to perform certain requirements (e.g., furnishing aid, information, etc.) at the scene of an accident in which he was involved and which resulted in injury or death to another person must be punished by imprisonment of between 30 days and 1 year, a fine of \$100-\$500, or both. This bill sets two different penalties---one for when bodily injury results and one for when death results, as follows:

(A) Leaving Accident Scene When There is Injury: Minimum imprisonment of 30 days deleted; current maximum of 1 year imprisonment and fine of \$100-\$500 remain intact, however.

(B) Leaving Accident Scene When Death Results: New penalty is imprisonment not exceeding 25 years and a fine of between \$10,000 and \$25,000.

No Device May Be Use to Invade Privacy of Others (H. 4405, Rep. Phillips). This bill revises the state's "Peeping Tom" statute to prohibit a person from using any device to invade another person's privacy "when there is an expectation of privacy."

Referendum on Confederate Flag (H. 4408, Rep. Wofford). This joint resolution requires a statewide referendum to be held this November to determine whether a Confederate flag should be flown on top of the State House and, if a flag should be flown, whether that flag should be the Confederate Battle Flag or the Confederate Stars and Bars Flag. If a majority favors flying a Confederate flag, then the flag receiving the highest number of votes must be flown on top of the State House. Currently the Confederate Battle Flag flies on the top of the State House dome.

Adjudication of Juveniles for Other Violations Affecting Their Privilege To Drive Must Be Reported (H. 4423, Rep. Farr). Under current law, the family court must report to the Department of Public Safety all adjudications of a juvenile for moving traffic violations. This bill would require the court also to report to the department adjudications of a juvenile for other violations affecting a juvenile's privilege to drive, including but not limited to controlled substance and alcohol violations. The bill also defines "controlled substance violation" and "drug offense" for purposes of the suspension of driver's licenses for these violations and provides that being adjudicated under juvenile proceedings also constitutes a conviction as pertains to suspension of a person's driver's license for offenses involving alteration of a license or unlawful consumption or possession of alcoholic beverages.

Bond No Longer Required to Obtain Concealed Weapon Permit (H. 4463, Rep. Cromer). This bill deletes provisions which require a person to obtain and file a bond of \$2,000 as a condition for being issued a concealed weapons permit.

False Advertising (H. 4450, Rep. Cobb-Hunter). This bill requires a person who offers or advertises a product or merchandise for sale to the public at a percentage off the item's original price to demonstrate to the Department of



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Consumer Affairs that the item actually sold in South Carolina for the original price within 6 months of the sale of the item. A person who does not comply with these provisions is guilty of the offense of false advertising and upon conviction must be fined \$500 for each item sold by the person in the state at the false sale price. This penalty is in addition to any other penalty provided by law for this activity.

Restrictions on Campaign Activities of Public Employees Who Are Paid By State Funds (H. 4454, Rep. Davenport). This bill prohibits persons employed by the State or persons employed by local government who are paid in whole or in part by state funds from managing or actively participating in partisan political campaigns. As examples, under these provisions employees could not be party candidates for nomination or election to public office; could not serve as an officer in a political party; could not manage the political partisan campaign of a candidate, distribute partisan campaign material or serve as a delegate to a political party convention. These provisions, however, would not prohibit employees from engaging in such activities as making campaign contributions, displaying political bumper stickers on their cars, or displaying a yard sign on their private property. An employee violating these provisions is guilty of a misdemeanor and upon conviction must be punished by a \$500 fine, or imprisonment of 30 days, or both. A person convicted under these provisions also must forfeit 2 months' salary, wages or compensation. Each violation of these provisions constitutes a separate offense. These provisions would not apply to persons occupying an office filled by popular election for a fixed term.

Civil Action for Injuries or Death Arising Out of Criminal Activity Prohibited (H. 4456, Rep. Davenport). This bill prohibits a civil action from being brought against a person for damages for injuries or wrongful death sustained as a result of criminal activity attempted or committed by the plaintiff or his deceased. These provisions apply to actions brought against the victim of a crime or attempted crime or a person acting on behalf of the victim who while defending another person's life or property inflicts injury or bodily harm upon the plaintiff or the plaintiff's deceased.

Reduction in Municipal Boundaries (H. 4457, Rep. Davenport). This bill allows a municipality to reduce its corporate limits if a majority of voters living in the area proposed to be excluded from the municipality vote in favor of leaving the municipality.

Life Imprisonment Without Parole for Certain Murder Convictions (H. 4465, Rep. Kirsh). This bill provides that when the State seeks the death penalty for a person convicted of murder, and an aggravating circumstance is found but the jury does not recommend the death penalty, then the person must be sentenced to life imprisonment without parole. Under current law, a person convicted under those circumstances and sentenced to life imprisonment is eligible for parole after 30 years.

Interim Director of Department of Public Safety May Be Appointed Permanent Director (H. 4469, Rep. Harvin). This bill deletes a provision of the State's 1993 Restructuring Act which prohibits the initial interim director of the



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Department of Public Safety from being appointed as that department's permanent director.

Nonprevailing Party in Certain Civil Actions Must Pay Attorney's Fees of Prevailing Side (H. 4474, Rep. Snow). This bill requires a person who brings a civil action seeking damages for injuries he sustained during commission of a crime for which he was convicted or to which he pled guilty or nolo contendere to pay the attorney's fees and costs of the prevailing party if he is the nonprevailing party. The amount of these fees and costs is to be determined by the court. If the person fails to pay these fees and costs, then he is prohibited from bringing any further actions in the courts of South Carolina arising out of that incident or occurrence.

Persons Sentenced to Life Imprisonment Not Eligible for Parole (H. 4508, Rep. Simrill). This bill prohibits anyone sentenced to life imprisonment from being eligible for parole.

Family Court Jurisdiction (H. 4503, Rep. Neilson). This bill lists the conditions under which the Family Court may order visitation rights for the grandparents of a minor child. Under this bill, this court may order such visitation when either or both parents of the minor child is or are deceased, divorced or living separately and apart in different habitats, regardless of the existence of a court order or agreement. Additionally, there must be a written finding that the visitation rights would be in the best interests of the child and would not interfere with the parent/child relationship.

Revised Penalty for Persons Convicted of Financial Transaction Card Theft (H. 4512, Rep. Wilkins). Under these provisions, a person convicted of financial transaction card theft is guilty of a misdemeanor, instead of a felony, and the fine of \$3,000-\$5,000 which may be imposed on anyone convicted of this crime is reduced to a maximum fine of \$3,000. The bill also provides that either a fine or imprisonment (3 years' maximum), but not both, may be imposed on persons convicted of this crime.

Child Neglect Includes Neglect of Fetus (H. 4486, Rep. Robinson). If this bill is adopted, the felony of child neglect also would apply to a pregnant woman who through neglect endangers or is likely to endanger the life or health of her fetus.

Public Service Commission May Regulate Extension of Natural Gas Services (H. 4513, Rep. Cato). ~~This bill grants~~ This bill grants to the Public Service Commission the authority to regulate the extension of services of all public utilities engaged in the business of furnishing natural gas to the public, but only as necessary to prevent duplication of services and facilities of natural gas companies whose rates are regulated by the Commission. These provisions also apply to utilities owned and operated by or on behalf of municipalities if the extension of service is outside the municipality's corporate limits and also apply to utilities owned or operated on behalf of a natural gas authority.



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Animals Used by Law Enforcement Exempt From Dangerous Animals Law (H. 4519, Rep. Cromer). This bill provides that the state's Dangerous Animals law does not apply to animals used by state or local law enforcement for law enforcement purposes.

Persons Under 21 Convicted of DUI Must Have Their Licenses Suspended (H. 4520, Rep. Richardson). This bill provides that a person under age 21 convicted of violating the state's DUI laws must have his driver's license suspended until he reaches age 21.

Issuance of Warrants by Magistrates (H. 4521, Rep. Cromer). This bill deletes provisions allowing a magistrate to endorse a warrant issued by a magistrate of another county when the person charged with a crime in that warrant is in the county of the endorsing magistrate. The bill allows a magistrate to issue a warrant where the person charged with a crime is within the trial jurisdiction of that magistrate and is also within the state. The magistrate must authorize any special constable or the sheriff of the county where the person sought may be found to execute the warrant. The bill also provides that when a municipal judicial officer (recorder, judge, etc.) issues a warrant for an arrest, the warrant is to be executed by the magistrate's constable or the sheriff of the county where the person sought may be found. The sheriff then must deliver the person to the proper issuing officer, to be dealt with according to law.

Imposition of Taxes and Fees on Property Transfers (H. 4522, Rep. Barber). This bill prohibits a county or municipality from imposing a tax or fee on the transfer of real property, except where the tax or fee is specifically authorized by general law.

## LABOR, COMMERCE AND INDUSTRY

Surcharges on Certain Auto Insurance Policies Prohibited (H. 4309, Rep. Govan). This bill prohibits a surcharge from being imposed (including loss of a safe driver discount) on a person's auto insurance policy for either (1) a person's first motor vehicle accident involving property damage totaling more than \$750 occurring in a 3-year period, or (2) a person's first violation under the state's point system (used to evaluate the operating record of persons licensed to drive) involving 4 or less points occurring in a 3-year period.

Greater Coverage Required on Auto Insurance Policies (H. 4310, Rep. Govan). This bill increases the coverage which is required on a person's auto insurance policy in this state as follows:

- (a) Bodily Injury (1 Person): Increases from \$15,000 to \$30,000
- (b) Bodily Injury (2 or More Persons): Increases from \$30,000 to \$60,000.
- (c) Property Damage: Increases from \$5,000 to \$15,000.

Additionally, the bill increases from \$5,000 to \$15,000 the amount of coverage which must be offered on any policy which insures a motorist from damages caused by an uninsured motorist.



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No Fees Imposed on Insurance Agents Who Are Exempt from Continuing Education Requirements (H. 4314, Rep. Baxley). This bill provides that continuing insurance education fees, used to monitor compliance with continuing insurance education requirements, may not be charged to or collected from insurance agents who are exempt from these continuing education requirements.

State's Meat Inspection Law Applies Also to Ostriches and Other Ratites (H. 4319, Rep. Kirsh). This bill provides that the state's meat inspection law also applies to meat derived from ostriches and other ratites (i.e., flightless birds). Currently this law applies to meat derived from cattle, sheep, swine or goats.

Impoundment of Uninsured Motor Vehicles (H. 4320, Rep. Cromer). This bill requires a law enforcement officer to impound immediately any motor vehicle he determines is subject to registration in South Carolina which is being operated without insurance. The vehicle cannot be returned to the owner unless he pays all the impoundment costs, fines and fees for operating or knowingly allowing the operation of an uninsured vehicle, and furnishes satisfactory proof of insurance to the Division of Motor Vehicles.

Tanning Services (H. 4341, Rep. Wilder). This bill provides that the State's Physical Fitness Services Act does not apply to tanning services which are offered by barbershops and beauty salons.

Reverse Mortgage Act (H. 4351, Rep. P. Harris). This bill is intended to help elderly homeowners meet their financial needs by accessing the equity in their homes through a reverse mortgage. The bill defines "reverse mortgage" as a non-recourse loan secured by real property which (1) provides cash advances to a borrower based on the equity in a borrower's owned-occupied principal residency; (2) requires no payment of principal or interest until the entire loan becomes due and payable; and (3) is made by a lender authorized to engage in business as a bank, savings institution or credit union under state law or federal laws, or any other lenders authorized to make reverse mortgage loans. The bill lists rules governing these mortgages and exempts these mortgages from certain provisions which apply to other mortgages. Reverse mortgage loan payments made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs (medical assistance, property tax relief, etc.) of aid to individuals. The bill also prohibits a lender from making a reverse mortgage commitment unless the loan applicant in writing acknowledges receiving from the lender at the time of initial inquiry a statement regarding the advisability and availability of independent information and counseling services on reverse mortgages. The Division of Aging of the Governor's Office would be required to provide independent consumer information on reverse mortgages and their alternatives.

Prohibition Against Discrimination in Accident and Health Insurance Policies and Benefits Applies to Services of Licensed Doctoral Psychologist (H. 4362, Rep. T. Alexander). This bill provides that the current prohibition against discrimination between individuals of the same class as pertains to



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health insurance rates and benefits for certain services applies also to services provided by a licensed doctoral psychologist.

Credit Applied to Auto Liability and Collision Insurance Rates for Completion of Driver Training Course (H. 4369, Rep. P. Harris). This bill provides that auto liability and collision insurance rates are subject to a credit if the applicant seeking the credit has successfully completed an approved driver training course. The applicant must not be subject to the youthful driver training course credit as currently mandated by state regulation. Each individual insurer may determine the amount of the credit, based on factually or statistically supported data, and the credit is subject to prior approval from the insurance commissioner. This credit must be provided to the vehicle operator for 36 months from the date of completion of the course, but the insurer may require as a condition of providing and maintaining the credit that the insured not be involved in an accident in which he is at fault during that 36-month period. Only the vehicle driven by persons who have completed this course qualifies for the credit, while other vehicles operated by other family members who have not completed the course do not qualify for this credit unless the primary driver of the vehicle has successfully completed the course. Persons who take driver training courses as a requirement of a driving offense are not eligible for this credit.

The bill defines "approved driver training course" as one which has been approved by the Department of Public Safety and which was conducted by a recognized college or university, instructors certified by the Department of Public Safety, or any other school approved and supervised by the Department. This course must include (1) at least 8 hours of classroom instruction; (2) a teaching method involving group discussion, lecture and visual presentations; (3) information about age-related physical changes affecting older drivers, accident prevention measures and basic review of rules-of-the-road; and finally (4), a relevant test on the course material.

Eviction of Resident of Manufactured Home Park (H. 4370, Rep. P. Harris). This bill deletes a provision which allows the owner of a manufactured home park to evict a resident because of the taking of the park or the part of the park affecting the resident's lot by eminent domain.

Persons Convicted of Felonies May Not Be Licensed as Insurance Agents (H. 4371, Rep. Richardson). This bill prohibits a person who at anytime has been convicted of, or has pled or pleads guilty or nolo contendere to a felony, from being licensed as ~~an insurance agent~~, allowed to possess an agent's license, or permitted to act in any capacity as an agent. These provisions apply regardless of when the conviction occurs or may have occurred or when the plea is entered or may have been entered.

Insurance Fraud (H. 4372, Rep. Richardson). This bill establishes an Insurance Fraud Reporting Bureau as a subdivision under the State Law Enforcement Division (SLED). The purpose of this bureau is to investigate all claims or allegations of insurance fraud, all claims or allegations of violations of presenting false claims for insurance payments, and all claims or allegations of



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related criminal insurance activity. Any person, insurer or authorized agency receiving information or having reason to believe that someone has committed insurance fraud, presented a false insurance claim or committed a similar, related insurance offense, or having knowledge of these suspected crimes must notify the Bureau of such knowledge or belief and provide additional information as requested by the Bureau. The bill exempts from civil or criminal liability any person, insurer or authorized agent who reports these crimes to the Bureau, except in bad faith, along with employees of SLED or the Bureau who investigate reports of these crimes.

The bill makes it unlawful for a person to commit insurance fraud and for anyone to conspire with another to commit such fraud. A person convicted of violating these provisions is guilty of a misdemeanor (if the amount of the fraud is \$1,000 or less) or a felony (if the fraud exceeds \$1,000). Punishment for persons convicted of this crime varies according to the amount of the fraud, as listed below:

(a) Insurance Fraud of \$1,000 or less: Fine or imprisonment not exceeding that which is permitted by law without presentment or indictment by the grand jury.

(b) Insurance Fraud of Over \$1,000 But Less Than \$5,000: Fine at the discretion of the court, imprisonment of 5 years, or both.

(c) Insurance Fraud of \$5,000 or More: Imprisonment of 10 years, or fine of \$20,000 or 10 percent of established fraud, whichever is greater.

Fines imposed on persons convicted of this crime must be used to fund the operations of the Bureau. Persons convicted of insurance fraud also are required to make restitution to victims of such fraud for any financial loss sustained as a result of this violation.

The bill also requires that a person convicted of the felony of presenting a false insurance claim of \$5,000 or more to an insurer may be fined a maximum of \$5,000 or 10 percent of the established false claim, whichever is greater. The imprisonment which may be imposed on a person convicted of the felony of presenting a false claim of over \$1,000 but less than \$5,000 is changed from a maximum of 5 years to a mandatory 5 years. Fines imposed on persons convicted of presenting false claims also must be used to fund the operations of the Insurance Fraud Reporting Bureau.

The bill provides that these provisions are not to be construed to hinder the ability of any insurer or health maintenance organization (HMO) transacting business in South Carolina, or any other person providing health care benefits in the state, ~~from conducting their own private investigation concerning~~ insurance fraud, presentment of a false insurance claim, or related criminal activity. Furthermore, the Bureau must periodically report to these insurers, HMOs and other persons providing health care benefits information concerning the status of matters reported to the Bureau, the outcome of investigations and prosecutions performed by the Bureau, and patterns/practices of fraudulent insurance transactions identified by the Bureau in performing its duties.

The bill also expands the jurisdiction of the state grand jury to include the investigation of insurance fraud and related insurance crimes.



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Insured Subscriber Under Individual Health Insurance Policy May Choose Health Care Provider (H. 4374, Rep. Houck). This bill permits an insured subscriber under an individual health insurance policy in force in South Carolina to choose his health care provider. The company writing the subscriber's policy must pay for services provided under the policy either by direct payment to the provider or by reimbursing the subscriber. The provisions of this act also apply to health maintenance organizations (HMOs), in which case the insured must pay the difference if the cost of services provided exceeds the lowest bidder.

Essential Property Insurance Redefined (H. 4375, Rep. Richardson). This bill changes the definition of "essential property insurance", as pertains to windstorm and hail insurance, to include insurance against indirect loss to property.

Nonticketed Violation in Accident of \$750 or More Not Subject to Recoupment Fee (H. 4378, Rep. Scott). This bill provides that with regard to private passenger auto insurance, a nonticketed violation in an accident or collision with property damage of \$750 or more is not subject to a recoupment charge.

Insurers May Not Cancel a Homeowner's Insurance Policy After Mortgage Loan Has Been Approved (H. 4379, Rep. Scott). This bill prohibits an insurer authorized to operate in this state from canceling a homeowner's insurance policy after a mortgage loan has been approved (with respect to property which is the subject of the loan) for a period of 1 year from when the policy was issued. The insurer also may not cancel any existing homeowner's insurance policy on property already owned by the person who has applied for the mortgage loan under these provisions (as pertains to newly-acquired property). If an insurer violates these provisions, his license to do business in South Carolina must be suspended for 6 months. This penalty is in addition to any other penalties provided by law and does not limit or supersede the right of the property owner or the mortgage loan applicant to bring a civil action for damages against the insurer.

Changes in Electing Persons to Workers Compensation Commission (H. 4380, Rep. M.O. Alexander). This bill deletes provisions which require the members of the Workers' Compensation Commission to be appointed by the governor with the advice and consent of the Senate. Instead, under this bill, members of the commission would be elected by the General Assembly, meeting in joint session. A resident member must be elected from each of the state's 6 congressional districts, and the commission chairman must be a member elected from the state at large. Members would serve staggered 4-year terms. All candidates seeking to serve on the ~~commission must first~~ be screened for office by the General Assembly's judicial screening committee. Members and former members of the General Assembly may not be elected to the commission until 2 years after leaving the General Assembly, although this prohibition does not apply to members or former members of the General Assembly serving on the commission on the effective date of this act. The bill also provides that the terms of all persons serving as members of the commission when this act is effective expire on April 30, 1995, and elections for their successors must be held during the 1995 legislative session, but no later than March 31 of that year.



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Rate for Risks Ceded to Reinsurance Facility Must Be Phased-In (H. 4382, Rep. J. Bailey). This bill provides that the final rate or premium charge for any private passenger auto insurance risk ceded to the State Reinsurance Facility is the final rate charged by the insurer or the facility rate (designated agent rate), whichever is higher. Establishment of a rate for auto insurance risks ceded to the Reinsurance Facility must be phased in over 2 years, so that not less than 50 percent of the current differential of the company-filed rate and the current facility rate must be added on renewals or new business effective after September 1994. The remaining 50 percent differential between the company-filed and the facility rate must be added on renewals or new business effective after September 1995.

Recovery for Noneconomic Loss Following Auto Accident (H. 4386, Rep. J. Bailey). This bill provides that in any tort action brought against the owner, registrant, operator or occupant of a motor vehicle to which an auto insurance policy is applicable, or against any person or organization legally responsible for his acts or admissions, the plaintiff may recover up to \$1,000 in noneconomic loss in tort. This recovery would be for pain, suffering, mental anguish and inconvenience because of bodily injury, sickness or disease arising out of ownership arising out of the maintenance, ownership or use of the vehicle. However, if the injury reaches a threshold such as permanent and serious bodily injury or loss of body function, then the plaintiff may seek damages without the imposition of this \$1,000 limit. These provisions do not apply if the motor vehicle operator was DUI or guilty of intentional misconduct. The bill also lists courtroom procedure for addressing actions brought forth to recover these damages.

Registration of Residential Specialty Contractors (H. 4398, Rep. Fulmer). This bill provides that the Residential Builders Commission must insure that a residential specialty contractor possess the qualifications and experience to engage in their vocation before the Commission may register the contractor. To ensure that the contractor has the appropriate qualifications and experience, the commission may consider the past experience of the contractor or offer an examination if the contractor's past history is insufficient. The fee for the exam must be set by the commission by regulation. The bill also requires that when determining whether or not the cost of an undertaking by a residential builder or a certified residential specialty contractor exceeds \$5,000, the cost of all work performed or to be performed on the property by the same person within 90 days must be considered, whether the work is performed as a single project or as multiple projects.

Insurers Not Required to Provide Physical Damage Coverage for Certain Vehicles (H. 4399, Rep. J. Bailey). Under this bill, insurers are not required to write private passenger physical damage coverage for (1) classic cars (autos whose monetary value exceeds the original purchase price which has appreciated in value by maintaining the original parts); (2) antique cars (cars over 25 years old); (3) cars with any modification to the chassis or wheel base; (4) cars with a wheel base of 99.5 inches or less, including utility vehicles; (5) cars with a fair market value exceeding \$35,000; or (6) cars within the "sports group" (two-passenger body type auto with new weight/horsepower ratio between 20:1 and



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30:1) or "sports premium group" (two-passenger body type auto with a net weight/horsepower ratio of 20:1 or less). Insurers who write single interest collision coverage must provide a separate notice, to be signed by an applicant for that insurance, that the coverage the applicant is purchasing is only single interest collision coverage. The bill also provides that it is unlawful to consider race, color, creed, religion, national origin, ancestry, location of residence, occupation or economic status in determining premium rates to be charged for auto insurance. If an insurer or agent fails to insure someone at the base rate, the insurer or agent must provide a reason. Also, the director of the Department of Insurance or his designee must compile a comparative statistical analysis of persons for whom physical damage coverage are written and of persons who are denied this coverage, with the analysis including data by race, sex, occupation, income and geographical territory. This report must be furnished annually to the General Assembly.

Health Care Cooperative Agreements (H. 4401, Rep. Hodges). This bill is designed to encourage the development of cooperative agreements between 2 or more health care providers for the sharing of health care services such as technology and facilities. Development of these agreements is encouraged with the goals of moderating health cost increases and improving the quality of health care for South Carolinians.

Under these provisions, a health care provider may negotiate, enter into and conduct business pursuant to a cooperative agreement without being subject to challenge or scrutiny under any state antitrust law. Additionally, conduct in negotiating and entering into a cooperative agreement for which approval is sought from the State (through a certificate of public advantage) is immune from state antitrust laws, regardless of whether the approval (certificate) is issued. The bill provides that it is the General Assembly's intent that these provisions also immunize covered activities from challenge or scrutiny under federal antitrust laws.

A health care provider or accountable health plan may negotiate and enter into cooperative agreements with other health care providers or accountable health plans (organizations that integrate health care providers/facilities and assume financial risk in order to provider care or services) if the likely benefits resulting from the agreements outweigh any likely disadvantages resulting from the agreement. Parties to a cooperative agreement may apply to the Department of Health and Environmental Control (DHEC) for a certificate of public advantage. Issuance of this certificate by DHEC constitutes the department's formal approval of the cooperative agreement between health care providers. The application must include an executed written copy of the cooperative agreement and describe the nature and scope of the cooperation in the agreement and any monetary or other consideration passing to a party under the agreement. Upon receiving the application, DHEC must forward a copy to the attorney general, who must review the application within 30 days after its receipt. The attorney general may advise DHEC to approve or deny the application, but failure on his part to notify DHEC within 30 days constitutes his approval of the request. DHEC must grant or deny the application within 90 days after receipt from the applicant.



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DHEC must issue a certificate of public advantage for a cooperative agreement if the department determines that (1) the applicants have demonstrated that the likely benefits resulting from the agreement outweigh the agreement's likely disadvantages, and (2) the reduction in competition likely to result from the agreement is reasonably necessary to obtain the benefits likely to result. The bill lists factors DHEC must consider in determining whether the agreement's advantages outweigh its disadvantages and whether the reduction in competition is necessary to achieve the agreement's benefits.

DHEC also must actively monitor and regulate agreements approved under these provisions to ensure that the agreements remain in compliance with the conditions of approval. The department must charge an annual fee to cover the cost of monitoring and regulating these agreements. While the certificate is in effect, a report on the activities pursuant to the cooperative agreement must be filed with DHEC every 2 years, so that DHEC may determine whether the agreement continues to comply with the terms of the certificate. DHEC may revoke a certificate upon finding that (1) the agreement is not in substantial compliance with the terms of the application or the conditions of approval; (2) the likely benefits resulting from the certified agreement no longer outweigh any disadvantages attributable to any reduction in competition resulting from the agreement; or (3) DHEC's certification was obtained as a result of intentional material misrepresentation to the department or as the result of coercion, threats or intimidation toward any party in the agreement. DHEC's decision to revoke a certificate is entitled to judicial review in accordance with the Administrative Procedures Act.

DHEC is required every 2 years to analyze the market power of accountable health plans that have entered into approved cooperative agreements. The purpose of this analysis is to determine when the market share of an accountable health plan reaches a point where the exclusion of any health care provider from the accountable health plan would result in the substantial inability of excluded health care providers to continue their practice, with the effect that consumer access to needed health services is restricted. The bill lists factors DHEC must consider in analyzing the market power of accountable health plans which have entered into approved cooperative agreements.

DHEC also must maintain on file all cooperative agreements for which certificates remain in effect. A party to the agreement who terminates the agreement must notify DHEC within 15 days of the termination. If all parties terminate their participation in the agreement, then DHEC must revoke the certificate for the agreement.

The provisions of this bill do not exempt health care providers or purchasers from compliance with state law pertaining to certificates of need.

Liquor by the Drink (H. 4406, Rep. Thomas). This bill deletes provisions pertaining to the sale of liquor in minibottles and authorizes the sale of liquor by the drink. The bill also imposes a tax of \$5.94 per liter or proportion of liter on alcoholic liquor sold to establishments. Every bottle of liquor sold to a licensee must have on it a stamp issued by the Department of Revenue and



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Taxation indicating that this tax has been paid. A licensee who fails to pay the tax is guilty of a misdemeanor and upon conviction must be fined not more than \$1,000 and is subject to suspension or revocation of his license at the discretion of the Department. If these provisions are adopted, they would take effect on the first day of the second month following ratification of a constitutional amendment (summarized in H. 4402) authorizing the sale of liquor by the drink.

Elimination of Some Responsibilities of Agency Administering Community Economic Development Act (H. 4410, Rep. Simrill). This bill deletes provisions requiring the state agency responsible for implementing the state's Community Economic Opportunity Act to prescribe the personnel procedures and financial systems under which community-based organizations receiving funds under this act must operate and to review and approve all bylaws for organizations receiving funds under this act.

No Long-Distance Charges Permitted on Calls Made Within Same County (H. 4411, Rep. Mattos). This bill prohibits a telephone utility from imposing a long-distance charge on telephone calls made within the same county after December 31, 1994. Additionally, the Public Service Commission must authorize rate adjustments as necessary for telephone utilities to maintain their allowed rate of return following elimination of these long-distance charges.

Housing Authority Commissioners Are Deemed Owners of Housing Authority Property For Matters Pertaining to Offenses Against the Property (H. 4412, Rep. Simrill). This bill provides that members of board of commissioners of each state, county or municipal housing authority in South Carolina, in their official capacity, are deemed to be the owners and possessors of all property of the respective housing authority under their jurisdiction as pertains to investigations and prosecutions of crimes of property damage and trespassing committed on the authority's property.

Travel Trailers and Motor Homes Cannot Be Exhibited or Sold At Certain Shows (H. 4426, Rep. Cromer). This bill deletes provisions which allow travel trailer dealers to exhibit and sell these trailers at fairs, recreational or sports shows, vacation shows and other similar events or shows. The bill also prohibits motor vehicle dealers or wholesalers from exhibiting and selling motor homes at those shows.

Reports of Late Loan Payments to Credit Agencies (H. 4461, Rep. Cromer). This bill would ~~prohibit a bank,~~ financial institution, lender, vendor or any other person who has extended credit or made a loan to an individual consumer, including loans secured by real estate, from reporting to a credit reporting agency that a borrower or consumer was late in making payments on his loan or account, unless during all or a portion of a 12-month period the borrower or consumer had at least 2 delinquencies of at least 15 days each.

Pawnbrokers Must Hold Items for 30 Days (H. 4462, Rep. Cromer). This bill requires items purchased by a pawnbroker to be held for 30 days before being disposed of, sold, altered or moved from the location at which it was purchased



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in South Carolina. This requirement does not apply, however, if the items are purchased on invoice from a manufacturer or wholesaler with an established place of business.

Unpaid Collected Premiums Held At Declaration of Insolvency Must Be Paid (H. 4491, Rep. J. Bailey) This bill requires an agent, broker, premium finance company, or any other person aside from the insured who is responsible for payment of a premium to pay any unpaid collected premium held by that person at the time an insurer is declared insolvent. This requirement applies whether the premium is earned or unearned or is an unpaid earned premium. Additionally, an agent, broker, premium finance company or any other person is not obligated to pay an uncollected, unpaid unearned premium to the liquidator.

Covered Claims Do Not Include Claims Filed More Than 18 Months After Insolvency Is Declared (H. 4494, Rep. J. Bailey). This bill provides that a covered (unpaid) insurance claim does not include any claim filed with the South Carolina Property and Casualty Insurance Guaranty Association after (1) the final date set by a court for the filing of claims against the liquidator or receiver of an insolvent insurer or (2) more than 18 months after the declaration of insolvency, whichever is later.

Actions Against State Property and Casualty Insurance Guaranty Association Must Be Brought in South Carolina (H. 4496, Rep. J. Bailey). This bill requires any action brought directly against the South Carolina Property and Casualty Insurance Guaranty Association to be brought against the association in South Carolina as a condition precedent to recovery directly against the association.

Auto Insurance Includes Any Named Nonowner Policy (H. 4497, Rep. J. Bailey). This bill provides that auto insurance also includes any named nonowner auto insurance policy and deletes provisions which state that an auto insurance policy only includes a nonowner policy which covers certain individuals.

Ocean Marine Insurance (H. 4498, Rep. J. Bailey). This bill defines ocean marine insurance, as pertains to the state's Property and Casualty Insurance Guaranty Association, to include marine insurance except for inland marine and to include any other form of insurance which insures against maritime perils or risks and other related perils or risks that are usually insured against by traditional marine insurance.

## ~~MEDICAL~~, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

Juveniles Charged with Criminal Domestic Violence Eligible for Detention in Secure Juvenile Detention Facilities (H. 4312, Rep. Scott). This bill provides that a juvenile is eligible for detention in a secure juvenile detention facility if he is charged with criminal domestic violence.

Health Maintenance Organizations Cannot Exclude Opticians (H. 4353, Rep. Barber). Under this bill, a Health Maintenance Organization (HMO) cannot prohibit



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a licensed optician from participating as a provider in the HMO on the basis of his profession.

Generic Drugs (H. 4373, Rep. Cromer). Under this bill, if a pharmacist, when dispensing a prescribed medication, substitutes a generic drug for a name brand drug, then the generic drug name must be listed on the prescription label first, followed by the name brand drug in parentheses.

Alzheimer's Coordination Center (H. 4388, Rep. P. Harris). This bill establishes within the Division of Aging of the governor's office the Alzheimer's Disease and Related Disorders Resource Coordination Center. The purposes of this center are to provide statewide coordination, service system development, information and referral, and caregiver support services to persons with Alzheimer's disease and related disorders, their families and caregivers. Among other activities, the center must initiate the development of systems which coordinate the delivery of programs and services and must recommend public policy concerning Alzheimer's Disease and related disorders to state policymakers. This center must be supported by an advisory committee which is appointed by the governor. The bill lists who must be represented on the committee, including, among others, representatives of several of the state's universities, departments and associations. Members of the advisory committee are not entitled to mileage, per diem, subsistence or any other form of compensation.

Family Support Services for Victims of Head and Spinal Cord Injuries (H. 4389, Rep. J. Wilder). Currently, family support services are administered by the Department of Disabilities and Special Needs to assist families who support a family member with mental retardation or related disabilities. This bill extends those services to individuals (i.e., those without families) with mental retardation or related disabilities, and to individuals with head injuries, spinal cord injuries or similar disabilities, along with their families. The bill also expands the services provided by the Department's Family Support Program to include work site modifications.

Organ Tissue and Donor Program (H. 4390, Rep. Byrd). This bill establishes an Organ and Tissue Donor Program in the Department of Health and Environmental Control (DHEC) to promote organ and tissue donations. Additionally, the Department of Revenue and Taxation must offer each applicant seeking to obtain or renew a driver's license an opportunity to contribute one dollar (\$1.00) to the program. The contribution would be added to the license fee and credited to a special account in the State Treasurer's office for use by DHEC to administer the organ and tissue donor program.

State to Furnish Law Enforcement Officers with Bulletproof Vests (H. 4391, Rep. Lanford). This bill requires the State to furnish each law enforcement officer with a bulletproof vest upon the officer's successful completion of the South Carolina Law Enforcement Training School program.

Nonviolent Persons Requiring Mental Health Treatment May Be Transported By Alternative Means (H. 4394, Rep. P. Harris). Under current law, a person who is to be admitted to a mental health facility must be transported to the facility



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by a law enforcement officer or, if he freely chooses responsibility for transporting the person, by a friend or relative. This bill would authorize a nonviolent person requiring treatment to be taken to the facility by means of an alternative transportation program which utilizes peer supporters and case managers. This program may be utilized upon written agreement between local law enforcement agencies and directors of community mental health centers, and the agreement must define the responsibilities of each party and the requirements for program participation.

Prisoners May Not Use Exercise Equipment (H. 4397, Rep. Lanford). This bill prohibits the Department of Corrections from providing or permitting exercise equipment (weights or weight equipment) to be used by prisoners.

Storage and Confidentiality Requirements for Blood Samples Used in Neonatal Testing (H. 4407, Rep. Hutson). This bill requires the Department of Health and Environmental Control to prescribe by regulation the methods and procedures for storage of blood samples used to conduct neonatal testing. Blood taken to perform these tests must be stored by the department at -20 degrees Celsius (-4 degrees Fahrenheit) and available for additional tests as DHEC prescribes by regulation. Information obtained pursuant to this testing is confidential and can only be released to the parents of the child, the child's physician, and the child when age 18 or older. Anyone violating these provisions is guilty of a misdemeanor and upon conviction must be fined not more than \$100 or imprisoned not more than 30 days.

Children's Firearm Education and Protection (H. 4413, Rep. Jennings). This bill requires persons who possess firearms on premises to keep them in a locked container or otherwise secured to prevent a minor (person under age 14) from obtaining access to the weapon. If a person keeps a loaded firearm on premises under his custody or control and knows that a minor is likely to gain access to the firearm without the person's supervision, and the minor obtains access to the firearm and causes death to himself or another person, then the person who keeps the firearm on premises is guilty of the misdemeanor of criminal storage of a firearm in the first degree and upon conviction must be imprisoned not more than 3 years, or fined not more than \$3,000, or both. If the minor causes injury to himself or another person, or causes the firearm to discharge, but death does not occur, then the person keeping the firearm on premises is guilty of the misdemeanor of criminal storage of a firearm in the second degree and upon conviction must be imprisoned not more than 1 year, or fined not more than \$1,000, or both.

These provisions do not apply if, among other instances, the minor obtains access to the firearm because of illegal entry to the premises or the person keeping the firearm on premises has no reasonable expectation that a minor is likely to be on premises. If the person who violates these provisions is related within the 3rd degree of consanguinity to a minor who is injured or dies as a result of an accidental shooting, the solicitor must consider the impact of the injury or death on the person when deciding whether to prosecute a violation. It is the General Assembly's intent that a person related within the 3rd degree of consanguinity of a minor who is injured or dies as a result of an accidental



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shooting must be prosecuted only when the person related within the third degree behaved in a grossly negligent manner or where similarly egregious circumstances exist. If a person accused of this crime attended a firearm safety course before the purchase of the firearm obtained by the minor, this must be considered a mitigating factor by a solicitor when deciding whether to prosecute a violation.

During each retail sale or transfer of a firearm, the seller must deliver a warning to the purchaser indicating that it is unlawful and punishable by imprisonment and fine for an adult to store or leave a loaded firearm within reach or easy access of a minor. Furthermore, retail dealers who sell firearms must post at the purchase counters a warning indicating it is unlawful to store or leave a firearm within reach or easy access of a minor. A person failing to post these warnings is guilty of a misdemeanor and upon conviction must be fined between \$1,000 and \$5,000.

The bill also requires the Department of Health and Environmental Control (DHEC) to develop a program to educate the state's population on the provisions of this act. The program should emphasize keeping guns away from children by keeping weapons and ammunition locked and stored out of reach of children, purchasing only guns with safety features, or removing guns from homes where children reside.

Regulation of Fireworks by Local Ordinance (H. 4428, Rep. McElveen). This bill allows a county or municipality to enact local ordinances regulating the storage, sale and use of fireworks within its jurisdiction, provided that these ordinances do not conflict with state law or regulations promulgated pursuant to state law. The local ordinances may include penalties for violations.

Local Fire Chiefs May Temporarily Ban Use of Fireworks (H. 4429, Rep. McElveen). This bill allows a fire chief or head of fire services of any county or municipality to temporarily ban the use of fireworks in that jurisdiction if otherwise permitted when weather conditions or other conditions require. The governing body of the county or municipality must confirm the ban at its next regularly scheduled meeting by emergency ordinance or terminate the ban. Violation of the emergency ordinance is a misdemeanor punishable by a fine not exceeding \$100 or imprisonment not exceeding 30 days.

Prison Industries May Sell Hogs on Open Market (H. 4464, Rep. Waldrop). This bill expands the list of prison-made products which may be sold on the open market to include hogs.

Restitution Center Program Abolished (H. 4466, Rep. Kirsh). This bill abolishes the restitution center program, which is currently operated by the Department of Probation, Parole and Pardon Services.

State Hearing Aids Act Does Not Apply to Audiologists (H. 4467, Rep. Kirsh). This bill provides that the state's Hearing Aids Act does not apply to audiologists, deleting provisions which allow audiologists to (1) be issued a hearing aid specialist license without completion of a written examination and a practical test; (2) conduct hearing aid specialist qualifying examinations; and



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(3) serve on the State Commission for Hearing Aid Specialists. The bill also increases the number of commission members from 4 to 5 and removes the current requirement that each member be a principal dealer of a different manufacturer's hearing aid.

Persons Incarcerated for Criminal Sexual Conduct Cannot Serve Work Release in Community Where He Committed His Offense (H. 4473, Rep. Snow). This bill would prohibit an offender incarcerated for any type of criminal sexual conduct or attempted criminal sexual conduct which is not under statute a violent crime from serving in a work release program in the community where he committed the crime. Currently this restriction applies only to offenders incarcerated for violent crimes. The bill also provides that the solicitor, county sheriff and (if applicable) municipal law enforcement agency of the area where an offender who has committed or attempted to commit criminal sexual conduct of any degree is to be released under work release must be notified of the offender's release and his address.

Parole Review Periods (H. 4484, Rep. Snow). This bill provides that parole review periods for prisoners convicted of violent or nonviolent crimes who have been denied parole apply whether or not the applicable review period was more frequent at the time the prisoner was convicted of or pled to the offense.

Courts May Waive Fees for Intensive Supervision (H. 4500, Rep. Martin). This bill allows a court to waive the fee imposed on probationers, parolees or inmates placed under intensive supervision if the court determines the fee is a severe hardship on the individual under this supervision. Currently only the Department of Probation, Parole and Pardon may waive this fee.

## WAYS AND MEANS

Property Tax Exemptions (H. 4307, Rep. J. Bailey). This bill exempts from property taxation an amount of the fair market value of residential real property assessed at 4 percent of fair market value and real property and improvements assessed at 6 percent of fair market value which represent increases in fair market value resulting from reassessments occurring after the year the current owner acquired ownership of the property. When the property is transferred, its value for purposes of property taxation is its fair market value at that time. The exemption granted under these provisions does not apply to increases in fair market value attributable to permanent improvements made to the property.

When ownership of property receiving this exemption is transferred and has a higher valuation on the date of the transfer, a real property transfer tax is imposed on the transferor. This tax is equal to the difference between the tax due on the property for the last tax year before the transfer and the tax that would have been due for that year without benefit of the exemption. This transfer tax is due and payable to the treasurer of the county where the property is located at the time of closing. A penalty equal to 5 percent of the tax is added to the tax due for each 30 days or portion of 30 days the tax remains unpaid; however, the total penalty may not exceed 20 percent. When ownership of a portion



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of property receiving this exemption is transferred, then the transfer tax must be allocated proportionately as prescribed by the Department of Revenue and Taxation.

If adopted, these provisions would apply only with respect to increases in fair market value resulting from reassessments occurring after 1992, and no refunds must be paid for the 1993 property tax year because of this exemption.

No Higher Millage May be Imposed for Increased Cost of Existing Services Following Reassessment (H. 4324, Rep. J. Bailey). Although current law prohibits total property taxes for a political subdivision (county, municipality, school districts) from growing more than 1 percent in a year if the increase was the result of periodic reassessment, the law lists an exception whereby political subdivisions can raise millages despite this limit to pay for the increased cost of existing services provided by the political subdivision. This bill would delete that exception.

Property Tax Increases Limited to Increase in Consumer Price Index or 5 Percent (H. 4325, Rep. J. Bailey). This bill provides property tax exemptions for residential and commercial real property and improvements sufficient to limit annual property tax increases to the lesser of 5 percent or the increase in the Consumer Price Index (CPI) in the 12 months ending on March 31 of the applicable tax year. This exemption would not apply to tax increases attributable to improvements or reclassification. This exemption first applies to taxes due for the 1994 property tax year. Additionally, the exemption amount for property tax year 1994 must be adjusted to limit property tax increases on a parcel to the lesser of 10 percent of the increase in the CPI for the 24 months ending March 31, 1994.

The bill also establishes a real property transfer tax. This applies to transactions when ownership of property receiving this exemption is transferred. The tax imposed on the transferee is equal to the difference between the tax due on the property for the last tax year before the transfer and the tax which would have been due for that year without benefit of the exemption. The tax is due and payable to the county treasurer at the time of closing, and a penalty equal to 5 percent of the tax must be added to the tax due for each 30 days or portion of 30 days the tax remains unpaid. The total penalty may not exceed 20 percent. When ownership of a portion of property receiving the exemption is transferred, then the tax must be allocated proportionately as prescribed by the Department of Revenue and Taxation. The transfer tax would apply to transactions occurring after 1994.

Higher Retirement Age for Magistrates (H. 4335, Rep. Waldrop). This bill increases the mandatory retirement age for magistrates from 72 to 75.

Repeal of Safe Drinking Water Fee (H. 4352, Rep. Cromer). This bill repeals a temporary proviso adopted in the Fiscal Year 1994 budget which authorizes the Department of Health and Environmental Control (DHEC) to collect an annual fee from the state's public drinking water systems. This fee was authorized so that DHEC could implement the requirements of the amended federal Safe Drinking Water



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Act, which requires stricter monitoring of contaminants in the state's water systems.

Souvenirs May Be Sold in State House (H. 4363, Rep. Stuart). This bill would allow the Department of Parks, Recreation and Tourism to sell and display souvenirs and mementos of South Carolina in the first floor lobby of the State House. The selling and display of these items would be conducted in the manner as directed by the Director of the Division of General Services of the State Budget and Control Board.

Councils and Agencies Providing Aging Services Eligible for State Health and Dental Insurance Plans (H. 4368, Rep. P. Harris). Under this bill, employees, retirees and eligible dependents of county councils on aging and agencies funded by the governor's division on aging which provide aging services would be eligible for coverage under the state health and dental insurance plans.

Minimum \$20 Property Assessment Applies Only Where No Higher Minimum Assessment is Imposed (H. 4376, Rep. Kirsh). Under this bill, the current minimum assessment of \$20 on all taxable property would apply only to personal property where no higher minimum assessment is otherwise imposed by law. These provisions would apply to taxes due for property tax years beginning after 1993.

Prosthetic and Orthotic Devices Exempt from Sales Tax (H. 4387, Rep. J. Brown). This bill would exempt prescription orthotic devices and replacement parts for prescription prosthetic and orthotic devices from the state's sales and use tax. Prescription prosthetic devices already are exempt under current law from the state's sales and use tax.

Property Tax Exemption for Educational and Medical Institutions Applies Only to Buildings and Premises Occupied by Property Owners (H. 4393, Rep. Houck). This joint resolution seeks to amend the Constitution to provide that the property tax exemption granted to educational institutions, hospitals and institutions caring for persons such as the aged and infirm does not extend beyond the buildings and premises actually occupied by the owners of the property.

Video Poker Licensing and Taxes (H. 4400, Rep. Richardson). This bill revises the statutes which govern the operation of video poker in South Carolina. Under this bill, each video poker machine must have a credit payback value of at least 60 percent. Manufacturers of these games in South Carolina must obtain a biennial license ~~from the Department~~ of Revenue and Taxation before engaging in such activity. The cost of this license is \$10,000. An owner or operator of an establishment on which these games are located must obtain a biennial (\$200) license from the Department before these games can be placed on premises. Neither of these licenses may be issued or renewed until the applicant for the license presents to the Department a signed statement from the department and from the Internal Revenue Service indicating that the applicant does not owe any delinquent taxes, penalties or interest to the state or federal government.



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Also under this bill, a 10 percent tax on the gross proceeds of video poker machines is imposed beginning July 1, 1994. This tax revenue must be remitted twice monthly to the Department of Revenue and Taxation by electronic transfer. Revenues generated from this tax are credited to a separate fund in the State Treasury, and the funds proceeds may be appropriated by the General Assembly only for nonrecurring purposes for state agencies as follows: Department of Corrections (10 percent); South Carolina Law Enforcement Division (10 percent); Department of Alcohol and Other Drug Abuse Services (7 percent); Department of Mental Health, for use with the South Carolina Alliance for Children and other children's issues (3 percent); Heritage Land Trust Fund (3 percent); and South Carolina Arts Commission (3 percent). Revenues from this fund not appropriated for the agencies listed above must be transferred to the State's general fund, and the highest priority for appropriations from this fund must be for the Department of Revenue and Taxation for enforcement of these provisions and for the medicaid pharmaceutical program.

The bill also requires that all video poker machines licensed by the Department of Revenue and Taxation must be equipped with metering devices by July 1, 1994, as opposed to the current deadline of July 1, 1995. Furthermore, the one-time \$500 fee imposed on machines to monitor their operations must be paid for machines licensed for the period between July 1, 1993 and June 30, 1994. Currently the fee is imposed on machines licensed between July 1, 1993 and June 30, 1995.

Handicapped Exempt from Property Taxes (H. 4420, Rep. Mattos). This bill exempts from property taxation the house and lot of a handicapped person.

Additional Sales Tax on Pistol Sales (H. 4451, Rep. Rudnick). This bill imposes an additional 5 percent sales tax on the gross proceeds of the sale of a pistol or on the sales price of a pistol purchased at retail, whether for storage, use or consumption in South Carolina. Revenue from this additional tax must be credited to the State's General Fund and used for law enforcement purposes.

Retirement Service Credit May Be Established Upon Reemployment Within 2.5 Years Following Beginning of Maternity Leave (H. 4460, Rep. McTeer). This bill allows a person to establish service credit under the State Retirement System for maternity leave as currently provided by law if, following that leave, she applies for re-employment within 2 years of going on maternity leave and is hired no later than two-and-a-half years after the beginning of maternity leave.

Motorboat Number Certificates Cannot Be Renewed Unless Statement Acknowledging Tax Payments Is Provided (H. 4502, Rep. Gonzales). Like H. 4326, this bill requires the Department of Natural Resources to first have proof of payment of property taxes on a motorboat before an applicant may renew his motorboat number certificate. Under these provisions, proof of such payment is demonstrated by the applicant presenting a statement from his county treasurer certifying that personal property taxes due and payable on the boat and motor have been paid for all tax years completed since the later of (1) the last year when the motorboat's number certificate was issued or renewed or (2) the year in



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which the current owner acquired ownership of the motorboat. These provisions do not apply to watercraft which are exempt from personal property taxes. Unlike H. 4326, this bill does not list any penalties for persons who violate these provisions.

School Employees Must Be Paid Bonus from Campus Incentive Funds (H. 4504, Rep. D. Wilder). Like H. 4392, this bill requires that Campus Incentive Program Funds used to provide a one-time bonus to teachers during the current fiscal year also must be used to provide a bonus in the same amount to other school employees. If there are insufficient funds in this program to pay the bonus for other school employees, then the bonuses must be paid from the State's General Fund. No school employee who receives a bonus as a state employee would be eligible for this bonus, and bonuses for federally-funded school employees must be paid with federal funds.

Public Drinking Water Fees Suspended (H. 4510, Rep. Robinson). This joint resolution requires that public drinking water fees be suspended until reauthorized by an act or joint resolution of the General Assembly. A temporary proviso in the 1993-1994 General Appropriations Act authorized these fees for the purpose of complying with additional requirements of the federal Safe Drinking Water Act.

Sales Tax Rate Increased from 5 to 6 Percent (H. 4506, Rep. Walker). This bill raises the state sales tax rate from 5 percent to 6 percent, except on items (vehicles, machinery for research, etc.) subject to the state's \$300 sales tax cap. The bill also exempts owner-occupied residential real property from payment of school property taxes, except for school taxes levied to pay off bonded indebtedness. This exemption may not be repealed or amended except by a two-thirds vote of the entire membership of both the House and the Senate.

Revenue raised from the 1 percent sales tax increase must be credited to the state's general fund, to be used for school purposes such as replacing school district revenues lost because of the exemption provided to residences, paying 100 percent of school district bus driver salaries and purchasing buses and instructional materials.

The bill also limits increases in school tax millage levied for operating purposes to no more than the rate of increase of the consumer price index for the 12 months ending the March 31 before the school year. This requirement first applies to school taxes levied for the 1994-1995 school year. Each school district on an annual basis must submit the millage limitation and the amount of property tax revenue collected to the Budget and Control Board's Division of Research and Statistical Services.

The bill also requires the General Assembly, for school years beginning after 1993, annually to appropriate sufficient funds to (1) maintain the state share of the foundation program at 80 percent; (2) pay 100 percent of employer contributions required of school districts based on the defined minimum program; and (3) pay 100 percent of school district bus driver salaries and associated employer contributions.



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Members of South Carolina Retirement System May Retire With Full Benefits After 25 Years (H. 4507, Rep. Walker). This bill allows a member of the South Carolina Retirement System to retire without a reduction of benefits if he has 25 years' creditable service. Currently a member must have 30 years of such service in order to retire without a reduction in benefits. The bill also allows the State Budget and Control Board to increase employee and/or employer retirement contributions in order to pay for the costs associated with this change.

Total copies 540

Total cost \$ 523.80

Cost per copy \$ .97

Date 1-18-94

S. C. Legislative Council